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December 23, 1999

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA COURIER

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
Room TW-B-204  
445 Twelfth Street, SW  
Washington., DC 20554

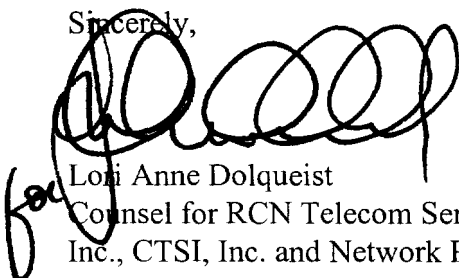
Re: Motion of RCN Telecom Services, Inc., CTSI, Inc. and Network Plus, Inc. For Stay Pending Judicial Review; CC Docket No. 99-295

Dear Ms. Salas:

Enclosed for filing on behalf of RCN Telecom Services, Inc., CTSI, Inc., and Network Plus, Inc. please find the original and six copies the above-referenced motion..

If you have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,

  
for Lori Anne Dolqueist  
Counsel for RCN Telecom Services,  
Inc., CTSI, Inc. and Network Plus,  
Inc.

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Before the  
Federal Communications Commission  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Application by Bell Atlantic - New York for ) CC Docket No. 99-295  
Authorization Under Section 271 of the )  
Communications Act to Provide In-Region, )  
InterLATA Service in the State of New York )

**MOTION OF RCN TELECOM SERVICES, INC. , CTSI, INC.  
AND NETWORK PLUS, INC.  
FOR STAY PENDING JUDICIAL REVIEW**

RCN Telecom Services, Inc. ("RCN"), CTSI, Inc. ("CTSI"), and Network Plus, Inc. ("Network Plus") (collectively "the Movants") by undersigned counsel, and pursuant to 47 C.F.R. §§ 1.41, 1.44(e), respectfully request that the Commission stay its recent Order in this proceeding ("*New York Order*"), pending judicial review.<sup>1/</sup> For the same reasons asserted by AT&T Corporation,<sup>2/</sup> the grant of a stay is appropriate under the circumstances because each of the Movants will be irreparably harmed absent a stay.

RCN is a facilities-based competitive local exchange carrier serving residential and business customers in the state of New York. RCN has constructed a full-service network to residences and

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<sup>1/</sup> *Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order*, CC Docket No. 99-295, FCC 99-404, released December 22, 1999 ("*New York Order*").

<sup>2/</sup> Motion of AT&T Corp. for Stay Pending Judicial Review, CC Docket No. 99-295, filed December 23, 1999 ("AT&T Motion"). The Movants hereby incorporate by reference the arguments made in the AT&T Motion.

businesses throughout the New York City calling area. CTSI provides business and residential competitive local exchange carrier ("CLEC") service in New York State, and together with other affiliates of CTSI's parent corporation, Commonwealth Telephone Enterprises, Inc., is the nation's tenth-largest independent telephone company serving approximately 260,000 access lines in eastern Pennsylvania. Network Plus is a network-based communications provider offering broadband data and telecommunications services. Network Plus offers local and long distance services, as well as enhanced, high-speed data and Internet services in major markets in the northeastern and southeastern regions of the United States including New York.

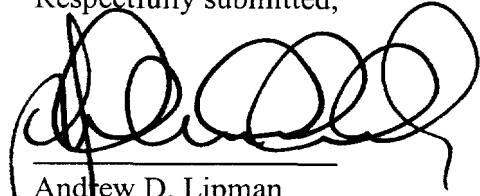
The Movants will suffer irreparable harm if the Commission does not stay its *New York Order*. Contrary to the Commission's finding in the *New York Order*, Bell Atlantic - New York ("Bell Atlantic") has not demonstrated compliance with the competitive checklist of Section 271. CLECs continue to experience difficulties with Bell Atlantic that significantly impede their ability to provide service to New York consumers. In particular, as stated in RCN and CTSI's comments on the record in this proceeding,<sup>3/</sup> RCN and CTSI have experienced problems with Bell Atlantic's performance in the following areas: (1) house and riser cable; (2) access to Bell Atlantic conduit; (3)

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<sup>3/</sup> See Comments of RCN Telecom Services, Inc., October 19, 1999; Reply Comments of RCN Telecom Services, Inc., November 8, 1999; Brief of RCN Telecom Services, Inc., NYPSC Case 97-C-0271, August 17, 1999; Affidavit of Terry Roberts, NYPSC Case 97-C-0271, August 3, 1999; Affidavit of Edward Kuczma, NYPSC Case 97-C-0271, July 26, 1999; Affidavit of Alan Thompson, NYPSC Case 97-C-0271, April 27, 1999; Affidavit of Timothy Wyllie, NYPSC Case 97-C-0271, April 27, 1999; Joint Brief of Choice One Communications, Inc. and CTSI, Inc., NYPSC Case 99-C-0271, August 17, 1999; Update Affidavit of Beth Shubilla, NYPSC Case 97-C-0271, July 21, 1999; Affidavit of Beth Shubilla, NYPSC Case 97-C-0271, April 27, 1999; .

loop/transport combinations; (4) access to resold telecommunications services; (5) unbundled local loops; and (6) directory listings. As AT&T aptly demonstrates, Bell Atlantic has a nearly insurmountable competitive advantage over competitive carriers as long as it is easier to switch a customer's long distance provider (by simply entering a primary interexchange carrier ("PIC") change) than it is to switch a customer's local exchange service provider (for example, by going through the elaborate and unreliable loop cutover mechanisms). Notwithstanding the Commission's admonition that Bell Atlantic not *backslide* on its provision of service to CLECs, by approving Bell Atlantic's application to provide in-region interLATA long distance service, the Commission has removed any incentive for Bell Atlantic to *improve* its performance in areas critical to the market entry and expansion of the Movants. As a result, the Movants will be irreparably harmed in their ability to provide competitive local exchange service in the State of New York, and the Commission should stay the *New York Order*.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew D. Lipman', written over a horizontal line.

Andrew D. Lipman

Jonathan D. Draluck

Lori Anne Dolqueist

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Dated: December 23, 1999

## CERTIFICATE OF SERVICE

I, Carolyn Shaw, hereby certify that on this 23rd day of December, 1999, copies of the attached motion were served upon the following:

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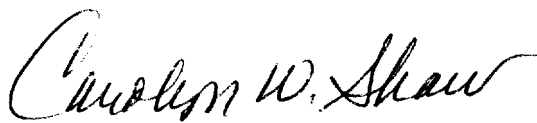
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